



CITY OF TRINIDAD  
TRINIDAD, COLORADO

The Regular Meeting of the City Council of the City of Trinidad, Colorado, will be held on Tuesday, September 17, 2013 at 7:00 P.M. in City Council Chambers at City Hall

The following items are on file for consideration of Council:

**\*\*PROCLAMATION - "CONSTITUTION WEEK" – September 17, 2013 through September 23, 2013\*\***

- 1) **ROLL CALL**
- 2) **APPROVAL OF MINUTES**, Regular Meeting of September 3, 2013
- 3) **EXECUTIVE SESSION**
  - a) For a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) – Discussion regarding ARPA litigation and discussion regarding legal options pertaining to the North Lake Dam Rehabilitation Project
- 4) **PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN**
- 5) **COUNCIL REPORTS**
- 6) **REPORTS BY CITY MANAGER AND CITY ATTORNEY**
- 7) **UNFINISHED BUSINESS**
  - a) Public hearing for consideration of an ordinance of the City Council of the City of Trinidad, Colorado, providing for a moratorium until June 30, 2014, on the submission, acceptance or processing of applications and the licensing, permitting, establishment or operation of any recreational marijuana business that sells, cultivates, manufactures, prepares, packages, purchases, tests, or otherwise provides for or allows the use of marijuana or marijuana products pursuant to Amendment 64, approved by the voters of the State of Colorado at the November 6, 2012, General Election, and codified as Article XVIII, Section 16 of the Colorado Constitution, including the use of land for such purpose or purposes
    - i) Second reading of an ordinance of the City Council of the City of Trinidad, Colorado, providing for a moratorium until June 30, 2014, on the submission, acceptance or processing of applications and the licensing, permitting, establishment or operation of any recreational marijuana business that sells, cultivates, manufactures, prepares, packages, purchases, tests, or otherwise provides for or allows the use of marijuana or marijuana products pursuant to Amendment 64, approved by the voters of the State of Colorado at the November 6, 2012, General Election, and codified as Article XVIII, Section 16 of the Colorado Constitution, including the use of land for such purpose or purposes
  - b) Public hearing for consideration of an ordinance of the City Council of the City of Trinidad, Colorado, enacting Article 12, Chapter 14 of the Code of Ordinances regarding retail marijuana local licensing authority
    - i) Second reading of an ordinance of the City Council of the City of Trinidad, Colorado, enacting Article 12, Chapter 14 of the Code of Ordinances regarding retail marijuana local licensing authority
  - c) Pertaining to medical marijuana -
    - i) Motion to direct staff to develop an ordinance for the development of a land use code, and development of licensing regulations, for and in connection with, medical marijuana, on or before March 1, 2014

7) **UNFINISHED BUSINESS (Cont.)**

**OR** - First reading of an ordinance...

- ii) *(Medical Marijuana – removing an effective ban relative to licensing consistent with the Oath of Office)*... repealing and re-enacting Section 9-4 of the Trinidad City Code for the purpose of prohibiting the issuance of a business license to any person seeking to carry on or engage in any business within the corporate limits of the City of Trinidad that is in violation of the United States Constitution of any law of the State of Colorado, and setting a hearing date for consideration of said ordinance
- iii) *(Medical Marijuana - ordinance to repeal prohibition until regulations are established but not to extend beyond March 1, 2014)*... amending Chapter 14 of the Code of the City of Trinidad, Colorado, for the purpose of authorizing future operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers, and setting a hearing date for consideration of said ordinance

8) **MISCELLANEOUS BUSINESS**

- a) Hotel and restaurant liquor license renewal request by El El Si, LLC d/b/a Main Street Tap House at 308 W. Main Street
- b) Approval of Property/Casualty and Workers' Compensation insurance coverage renewal through CIRSA (Colorado Intergovernmental Risk Sharing Agency) for 2014
- c) Setting of Public Hearing date for Capital Budget Estimates and 2014 Annual Budget (10/15/13)
- d) Consideration of contract modification request for engineering services related to the North Lake Dam Rehabilitation Project

9) **BILLS**

10) **PAYROLL**, August 31, 2013 through September 13, 2013

11) **ADJOURNMENT**

*Office of the Mayor*

**Trinidad, Colorado**

# Proclamation



**"CONSTITUTION WEEK"**  
September 17, 2013 – September 23, 2013

*WHEREAS, September 17, 2013, begins the weeklong national celebration of Constitution Week, a commemoration of America's most important document, the Constitution of the United States of America; and*

*WHEREAS, the United States Constitution stands as a testament to the tenacity of Americans throughout history to maintain their liberties and freedom, and to ensure those inalienable rights to every American; and*

*WHEREAS, in 1955 the Daughters of the American Revolution petitioned Congress to set aside September 17-23 annually to be dedicated for the observance of Constitution Week, resulting in the adoption of Public Law #915 in 1956 which guarantees the issuance of an annual proclamation by the President of the United States of America designating September 17 through 23 as Constitution Week; and*

*WHEREAS, the celebration of Constitution Week aims to: emphasize citizens' responsibilities for protecting and defending the Constitution, preserving it for posterity; inform the people that the Constitution is the basis for America's great heritage and the foundation for our way of life; and encourage the study of the historical events which led to the framing of the Constitution in September 1787; and*

*WHEREAS, it is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the patriotic celebration which will commemorate the occasion.*

*NOW, THEREFORE, I, Bernadette Baca Gonzalez, Mayor of the City of Trinidad, Colorado, at the request of the Santa Fe Trail Chapter, National Society Daughters of the American Revolution (NSDAR), do hereby proclaim the week of September 17 – 23, 2013 as:*

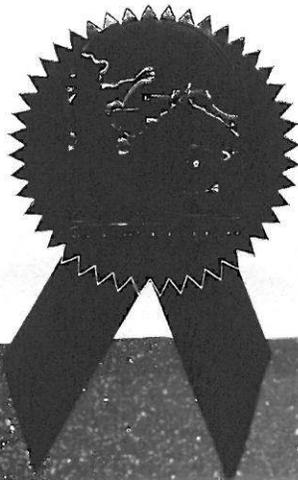
**"CONSTITUTION WEEK"**

*in the City of Trinidad and encourage all citizens across the country to take time this week to reflect on our heritage of freedom and come together to celebrate America.*

*In witness whereof I have hereunto set my hand  
and caused the seal of this city to be affixed.*

*Mayor* \_\_\_\_\_

*Date* \_\_\_\_\_



The regular meeting of the City Council of the City of Trinidad, Colorado, was held on Tuesday, September 3, 2013 at 7:00 p.m. in City Council Chambers at City Hall.

There were present:	Mayor	Baca Gonzalez, presiding
	Councilmembers	Bolton, Bonato, Mattie, Miles, Shew
Also present:	City Manager	Acre
	City Attorney	Downs
	City Clerk	Garrett
Absent:	Councilmember	Velasquez

**PROCLAMATION** – ArtoCade Celebration Week – September 9, 2013 through September 15, 2013. Pat Patrick was present to accept the Proclamation. He announced that this event is a City of Trinidad Tourism Board production. Mayor Baca Gonzalez read aloud the proclamation and presented it to Mr. Patrick.

Trindie Fest Week - September 9, 2013 through September 15, 2013. Mayor Baca Gonzalez read aloud the proclamation and asked that it be provided to the Loudons.

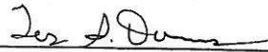
The pledge of allegiance was recited.

Mayor Baca Gonzalez asked for Council's consideration in conducting the executive session at this point in the meeting due to the presence of the City's legal counsel. A motion to take executive session out of order to conduct it at this point in the meeting was made by Councilmember Bonato and seconded by Councilmember Mattie. The motion carried by a unanimous roll call vote of Council members present.

**EXECUTIVE SESSION** – For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e); and/or for a conference with the City's Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) – Discussion regarding status of ARPA litigation. A motion to enter into executive session for the stated purposes was made by Councilmember Bolton and was seconded by Councilmember Shew. The motion carried unanimously upon roll call vote and the executive session ensued at 7:11 p.m.

*I, Les S. Downs, City Attorney for the City of Trinidad, do hereby attest that the executive session held on this 3<sup>rd</sup> day of September, 2013, was permissible under CRS Section 24-6-402 (4)(b).*

*As City Attorney, it is my opinion that the discussion of the matter announced in the motion to enter into executive session constituted a privileged attorney-client communication. Therefore, it is my recommendation that no further record be kept of this executive session.*

  
Les S. Downs  
City Attorney

Upon the conclusion of the executive session the meeting resumed at 7:25 p.m.

**APPROVAL OF THE MINUTES.** Regular Meeting of August 20, 2013 and Special Meeting of August 27, 2013. A motion to approve the minutes as presented was made by Councilmember Bolton and seconded by Councilmember Shew. The motion carried unanimously upon roll call vote.

**PETITIONS OR COMMUNICATIONS, ORAL OR WRITTEN.** Bob Butero, UMWA & State Ludlow Commission, update on upcoming events. Mr. Butero reminded Council that they are scheduled to conduct the annual Ludlow memorial service on September 22<sup>nd</sup>. He thanked Council for the Proclamation issued in April. Mr. Butero told Council that the Governor established the Ludlow Centennial Commission in April made up of 12 or 13 people to oversee the events surrounding the upcoming Ludlow services. The Commission over the last four to five months has scheduled several upcoming events. The local event will be on Sunday, September 22<sup>nd</sup> at 11:00 a.m. at the Ludlow site. Next year the annual service will be held on May 18<sup>th</sup> even though the massacre occurred on April 20<sup>th</sup> because that is Easter Sunday. The Greek Orthodox Church out of Denver will come down and hold a prayer vigil next year. Mr. Butero named some of the events scheduled, including one on September 5<sup>th</sup> at the Rawlings Public Library in Pueblo at 7:00 p.m. Author Thomas Andrews, who wrote 'Killing for Coal' will be the speaker. On Thursday, September 12<sup>th</sup> there will be a presentation in Erie, Colorado, at 7:00 p.m. by Dean Saitta, an archeologist who did the archeology dig at Ludlow. He continued that on Saturday, September 14<sup>th</sup> the Bessemer Historical Society of Pueblo will conduct a coal camp tour. The bus tour will begin in Pueblo and they will make a stop in Walsenburg and then travel to the Rouse, Delagua and Hastings areas and will stop and have lunch at Ludlow. On Sunday, September 15<sup>th</sup> Florence, Colorado, will host Ludlow Debates. Four representatives from that era will have debates. On Thursday, September 19<sup>th</sup> there will be an opening at the El Pueblo Museum in Pueblo at 5:00 p.m. entitled 'Children of Ludlow'. The exhibit will run through December, 2014. Finally he said on Saturday, September 21<sup>st</sup> at the Bloom Mansion Museum in Trinidad, Richard Bonaquista and his daughter will speak about some of the history of the tent colonies and how Mr. Bonaquista's grandfather was a member of the tent colony. That night at the Greek Orthodox Church in Denver there will be a presentation by Zeese Papanikolas, author of 'Buried Unsung'. Mr. Butero, providing the chronological event schedule, reminded of our local services on September 22<sup>nd</sup> and told Council that on September 26<sup>th</sup> Dean Saitta will hold a program in Broomfield. There will be a lot of events throughout the state. Their goal is to get out the message about Ludlow. He reminded Council of the visit from 50 high school students from around the state this summer who were involved in the camp's historic preservation doing some painting of the

surrounding fence. He said he asked the kids at a roundtable discussion how many of them knew about what had occurred at Ludlow or were taught about it in school and not one of them raised their hand that they did. This event happened in our state but it is not being taught about in our schools. Mr. Butero concluded that he hoped Trinidad and Walsenburg, Huerfano and Las Animas Counties, will benefit from these events.

Phil Rico addressed Council. He said he was here to address them on the marijuana issue that is a concern in the community. There is some evidence that medical marijuana has its place. He questioned if there are enough medical users in Trinidad to overshadow the recreational users. The recreational use is beginning to overshadow everything else. He suggested Council consider the following issues when deciding how they will vote: 1) Is this the appropriate time to give this a yes vote because we'll have new Council members seated in a few months? It is not in the best interest of the community that the current Council vote in favor at this time because the incoming Council members will have to take ownership of it. 2) Will a yes vote enhance the quality of life of the residents of the City? 3) Will a yes vote enhance the education of students? 4) Will it enhance the quality of life of the elderly? 5) Will the increase in tax revenues dramatically offset the cost of the additional workforce that will be needed to control the distribution? 6) Will this help the business community who has employees, and most importantly drivers? He said that is a big concern in the business community. Mr. Rico said they are in the beginning stages of redefining our community through the various programs such as SET, the Main Street Program, Creative District, and the Community Roundtable. They are all working to redefine our community. How will this decision redefine Trinidad? Will a yes vote enhance the quality of life for everyone in our community?

Steve Heller addressed Council. Mr. Heller said that everyone by now has seen the Attorney General proclamation that the United States Government informed the Governors of Colorado and Washington that the Department of Justice will allow the state to create a regime that would regulate the ballot initiative. Colorado and Washington have legalized the consumption of marijuana, and the federal government will not prosecute related crimes in those states. The rest of the country could soon follow. The action has been compared to the end of alcohol prohibition with respect to the federal government's reaction. Mr. Heller said he was an educator for about 25 years working mostly with high school students. He said kids will get high – they will find a way. They'll sniff glue, propellant from spray cans, they can make meth and one of their favorites is booze. He said some argue that this is a gateway drug, but so are the above. Lastly he said he was saddened to hear it argued that since others with serious medical conditions must travel to Pueblo and beyond to seek treatment so should those whose pain and suffering could be treated here in Trinidad. They should be made to travel for several hours to Pueblo. He opined that to be mean-spirited and denies Trinidad much needed business and tax revenue.

Karl Gabrielson addressed council. He said he was before Council to request a ban on marijuana sales in City limits. He said he views this as purely a land use issue and he doesn't see how marijuana sales in Trinidad would benefit the community. He suggested they would see that it will deter people from investing in the down town buildings and deter tourists, predominantly Texas tourists. Trinidad is the number one gateway into the state of Colorado and 3.25 million tourists travel through Trinidad every year on their way someplace else. Our goal for many years has been to try to capture some of that tourism traffic and bring it into downtown Trinidad. He said he doesn't see for a moment that retail or medical marijuana sales are going to help that cause. He recalled Mr. Rico speaking of many committees working really hard, but said he never once hear from any of those committees or groups that they are trying to encourage marijuana sales in downtown. Mr. Gabrielson said it will degrade the community and have a negative impact on attracting senior citizens and young families here to relocate. He said he doesn't personally want to raise his family in a community that condones and promotes marijuana sales. He also recalled Councilmember Mattie having mentioned that when he was looking for a college for his daughters that he had picked one over the other based on a perception of drug use. There are about 1,700 full-time equivalent students at Trinidad State Junior College. He asked Councilmember Mattie if he were taking his daughters to Trinidad now and saw a big green marijuana sign, would he consider traveling on to another community. It is a big issue here in Trinidad. College students smoke pot. He felt parents of college students would encourage those students to go to another community that doesn't allow marijuana sales. He reiterated his request that Council consider an outright ban on marijuana sales in Trinidad.

Amber Barela addressed Council. She recalled that last week Councilmember Mattie had a question and concern with retail marijuana establishments being similar to a casino-like environment. However, the regulations state that the signage and advertising should have no content that appeals to minors. Regulation R 1111(b) says "Outdoor Advertising Generally Prohibited. Except as otherwise provided in this rule, it shall be unlawful for any retail marijuana establishment to engage in advertisement that is visible to members of the public from any street, sidewalk, park or other public place, including advertising utilizing any of the following media: any billboard or other general outdoor advertising device; any sign mounted on a vehicle; any hand-held or other portable sign; or handbill, leaflet or flier directly handed to any person in a public area or left upon a motor vehicle; or posted upon any public or private property without the consent of the property owner." She also read regulation R1107, "Advertising: Internet – A retail marijuana establishment shall only engage in advertising on those internet websites that require a user to verify that he or she is at least 21 years of age." Ms. Barela said regarding youth possession, she provided Council with a survey from Sensible Colorado at their seating places. The survey entitled "Marijuana Use Down Among Teens in Colorado Since the MMJ Regulations Implemented" reads "Since the passage of HB10-1284, Colorado's historical medical marijuana regulation legislation, current marijuana use among high school students in Colorado has dropped from 24.8% to 22.0% according to the Federal Government's Centers for Disease Control and Prevention Youth Risk Behavior Surveillance Assessment." "These findings are consistent with a recent report published by Professor Mark Anderson that shows no noticeable link between increased youth marijuana use and states legalizing medical marijuana. In fact, the report shows that marijuana use among teens in Colorado is slightly below the national average." She said the next two paragraphs go on to say that the marijuana use is higher than tobacco among teens. She continued from the report "Previous studies have shown that cigarette use and availability among teens, which had been sharply increasing in the early 1990s, began steadily declining shortly after the 1995 implementation of the "We Card" program, a renewed commitment to strictly restrict the sale of tobacco to young people." Ms. Barela told Council that she works at a pizzeria downtown, and has for many years. She said she has all kinds of travelers coming in and talking to her, especially Texans. They ask her where they can get a sack of weed. She concluded that she didn't think it would hurt the revenue for this town at all. It would be great.

Eric Eanes addressed Council. He said he thinks numerous articles of statistics and evidence have been presented to

ARPA. City Manager Acre informed Council that the City's attorneys involved in the ARPA lawsuit had a conference with the judge in Trinidad today. The judge asked the City to move the trial to February 3, 2014 from September 23, 2013. The Judge had some scheduling conflicts that took precedence over the City's trial. Councilmember Miles corrected that the judge told the City to move it because of the number of criminal cases on the docket and that they are entitled to speedy trials.

Buildings. City Manager Acre reminded Council that over the weekend he sent out an e-mail to them concerning a partial wall collapse on North Commercial Street. He said the Building Inspector has posted the building and is sending a letter to the owners, who allegedly had already been contemplating demolishing the building.

Chapter 5/Building Code Updates. City Manager Acre told Council that Building Inspector Chris Kelley will be bringing back additional information to Council on the building codes focusing on phasing of work and the 2012 building codes. He said he'll take next week's work session for that topic as well as a few other items. Mayor Baca Gonzalez told Council that she will be at a Mayor's conference next Tuesday in Denver whereby she will be a speaker early on. She asked if the work session could be held at a later time. City Manager Acre said that the Planning Commission meets at 5:30 p.m. and suggested a 6:30 p.m. work session time to accommodate the request. Mayor Baca Gonzalez said the soonest she could be back in Trinidad is 3:00 or 3:30 p.m. Councilmember Bolton suggested holding the work session at 4:00 p.m. City Manager Acre expressed concern that with the other item he'd like to bring up and the building codes, one and one-half hours may not be enough time. He recommended they meet at 6:30 p.m. which would give the Planning Commission an hour for their meeting and added that at the September 24<sup>th</sup> work session there will be budget presentations. Council concurred.

Mosquitoes. City Manager Acre said that with the recent rain there has been an increase in the mosquito population. The Street & Bridge Department has some mosquito spray on hand that they will add to and start spraying next week. They have already done some spot spraying. He said that the City has had quite a few complaints about the mosquitoes over the weekend so they will do more spraying. Councilmember Bolton recalled that she had been previously told that there wasn't money in the budget for mosquito spraying. City Manager Acre said he was incorrect. Councilmember Bolton told him she would have appreciated him letting her know so she could have let the people who inquired of her know.

Chapter 5/Building Code Updates. Councilmember Miles asked the long-term plan with the building codes. She said she wakes up and hopes she doesn't read about a wall falling and recently one did. This is the third or fourth work session on the codes. City Manager Acre said his intent is to get building codes in place that everyone can support and have some flexibility, but at the same time some set criteria to enforce. Building Inspector Kelley has had some difficulty with the existing building code and with enforcing it. CIRSA will take a look at it as well. He said he wants it to be flexible but enforceable and he also wants to tackle the residential code. Councilmember Miles said she is aware that there is at least one important issue that Council hasn't given staff guidance on. She asked if after staff has that guidance what his goal would be in getting to where we need to be. City Manager Acre said if there is consensus next week from Council he wants to be able to get a final draft sometime in October for action.

**REPORT BY CITY ATTORNEY.** Medical Marijuana. City Attorney Downs called to Council's attention at their seating places a copy of the Colorado Department of Revenue's Medical Marijuana Code. He said in his zealously he overlooked providing Council with the medical marijuana regulations.

**UNFINISHED BUSINESS.** None.

**MISCELLANEOUS BUSINESS.** Appointments to the Planning, Zoning and Variance Commission. Mayor Baca Gonzalez announced that there are two vacancies and that three letters of interest were received to fill the vacancies on the Planning, Zoning and Variance Commission prior to the published deadline. The letters were received from Kent Eberhart, Frank Leone and David Baca. She advised that David Baca is her nephew as well as Councilmember Bonato's nephew and should he be nominated to be appointed neither could vote on it. Councilmember Shew moved to re-appoint Kent Eberhart and Frank Leone to the Commission since they've been on the board and have done a good job and have wanted to dedicate the time needed. Councilmember Bolton seconded the motion which carried unanimously upon roll call vote.

Mayor Baca Gonzalez pointed out that Council has five versions of ordinances to consider related to retail marijuana. Council chose to discuss the matter before introducing any of the proposed ordinances. Mayor Baca Gonzalez summarized that there are three possible ordinances that could be introduced and read, prohibiting retail marijuana, extending the moratorium until June 30, 2014 or extending the moratorium until March 1, 2014. Councilmember Miles suggested a process of elimination. Councilmember Bonato commented that as he has listened to the public and given it thought proper to the City, he opined that implementing a moratorium is a waste of time and there are more important issues the City has to face, including budget, buildings, and capital improvements. He added that he feels a moratorium will be passing the flag to another Council. People have asked him what Council is thinking when there are legal issues to deal with like ARPA, buildings, and CIRSA liability with respect to those buildings. Council needs to decide what is really important. He said his personal opinion and the feedback he has had from members of the public is that the sale of retail and medical marijuana should not be allowed within the City of Trinidad. Councilmember Miles agreed with him on not kicking the can down the road, however she said the reason a moratorium on retail makes sense to her is that it might work in conjunction with moving towards medical marijuana. She said that is what the City of Denver has done - they've put a moratorium on retail and over time will consider whether to allow medical marijuana establishments. Councilmember Bonato said he's hearing about other communities voting it down. Councilmember Mattie said the information Council has been getting is that most places are declaring a moratorium to buy time so things can work themselves out and to get answers to questions, such as the recent stance from the Federal Government. He said a moratorium will buy the City time. He too said he spoke with a number of people and this issue which has weighed heavily on his mind, having been a law enforcement officer for the past 36 years and having lived here all of his life. He added that he's driven people from chemotherapy treatment and seen the consequences of that treatment and understands that locally there were 45% of the voters who voted against it and his responsibility to protect their quality of life. He recognized also Mr. Rico's suggestion of tabling the issue and the fact that Councilmember Shew doesn't even want to vote on it because he wants to leave it for the next Council. He said that may be a reason to postpone the decision. He said what he's gleaned from talking to those he spoke to is that there is a fear and

frustration - fear on that which we don't understand and frustration on the sinking ship we seem to be on. Everyone is looking for something to turn us around. He likened it to the building of Las Vegas and noted the problems that came with it but conversely the employment. The decision to use or not use marijuana is a personal choice. If it is important to a person to have a commercial driver's license they can protect that and refrain from being involved with marijuana. We hand out liquor licenses like there's no tomorrow here, because they are going to have an adult beverage with their dinner or while at a theatrical performance. He agreed that we need to protect our children - parents need to protect their children and give them the value system so they can make good decisions. Councilmember Mattie said he sent one of his children to Fort Collins to college where they have 42 medical marijuana dispensaries. He was worried about Boulder, but Boulder has 26. His other child went to Denver where there are 559 medical marijuana dispensaries. It's not the location, it's the kid. He said he sent them there well prepared and well equipped. You are going to face this and have to make a proper decision. You cannot legislate morality. Councilmember Mattie concluded that he supports medical marijuana. Saying that you are going to legislate this and keep it out of the hands of kids and legislate against it makes as much sense as saying let's legislate guns so criminals won't have them. We have to do a better job at educating so people make better choices. People who are in need of medical attention and the relief they derive from medical marijuana have his support, he said, based on the trips he made with friends and family from chemotherapy and having to pull over every 15 minutes on the way home so they could vomit. Councilmember Bonato said he doesn't think Trinidad is ready for this and he doesn't think we have the manpower on the police force to regulate it. Councilmember Mattie suggested that the revenue from it should be dedicated primarily to law enforcement to deal with it. Councilmember Bolton introduced the ordinance providing for a moratorium on retail marijuana until June 30, 2014. Councilmember Shew commented that he's said he feels he shouldn't vote on the issue because he's a short timer. He said he recognizes that he's passing the buck but pointed out that some decisions in the past by past Councils have cost the City dearly, ARPA being one of them. He suggested the City needs to get more information and extending the moratorium gives the City time. He added that whoever gets his Council seat should have a choice in the matter, so he will vote to extend the moratorium. Councilmember Miles asked why June versus March for the moratorium. Councilmember Bolton answered that she introduced that retail marijuana moratorium ordinance in hope we can get started on medical first. Councilmember Miles agreed but said that they could have ordinances in 90 days for medical marijuana, December 1<sup>st</sup>. We could be granting licenses in the beginning of 2014 for medical. She asked Councilmember Bolton if she's saying we need six months to see how the medical marijuana licensing works out before we decide on the retail. Councilmember Bolton said that's her line of thought and Councilmember Shew agreed and said we need more information on medical marijuana too and we shouldn't rush into any of this. Councilmember Miles commented that nothing will be enacted by this current Council. All they would be doing is giving guidance to staff to bring back land use issues and regulations in two to three months. City Manager Acre said two to three months is a best guess but the longer the time period the better. Councilmember Miles pointed out that even with medical marijuana it will be the next Council deciding. We are just trying to not lose time while waiting for the election process. Councilmember Shew reiterated his sentiment that it shouldn't be rushed. Councilmember Miles concurred. Councilmember Mattie added that what they are doing he thought would be a deciding factor in the election. Mayor Baca Gonzalez stated that she is not in favor of either recreation or medical marijuana but she said she has enough sense to get the impression that voting no will not be a viable option. There's a motion on the floor to consider the moratorium and she said she respects the decision of the majority of her colleagues.

First reading of an ordinance of the City Council of the City of Trinidad, Colorado, providing for a moratorium until June 30, 2014, on the submission, acceptance or processing of application and the licensing, permitting, establishment or operation of any recreational marijuana business that sells, cultivates, manufactures, prepares, packages, purchases, tests, or otherwise provides for or allows the use of marijuana or marijuana products pursuant to Amendment 64, approved by the voters of the State of Colorado at the November 6, 2012, General Election, and codified as Article XVIII, Section 16 of the Colorado Constitution, including the use of land for such purpose or purposes, and setting a hearing date for consideration of said ordinance. The ordinance was previously introduced by Councilmember Bolton. The ordinance was read aloud in its entirety and a motion to approve it on first reading and consider it further at a public hearing at 7:00p.m. on September 17, 2013 was made by Councilmember Bolton. The motion was seconded by Councilmember Miles. Roll call was taken and the following votes were cast:

- Aye - Bolton, Mattie, Miles, Shew
- Nay - Bonato, Baca Gonzalez

The motion carried. Mayor Baca Gonzalez said she voted no because she thinks we should have gone with a prohibition.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, PROVIDING FOR A MORATORIUM UNTIL JUNE 30, 2014, ON THE SUBMISSION, ACCEPTANCE OR PROCESSING OF APPLICATION AND THE LICENSING, PERMITTING, ESTABLISHMENT OR OPERATION OF ANY RECREATIONAL MARIJUANA BUSINESS THAT SELLS, CULTIVATES, MANUFACTURES, PREPARES, PACKAGES, PURCHASES, TESTS, OR OTHERWISE PROVIDES FOR OR ALLOWS THE USE OF MARIJUANA OR MARIJUANA PRODUCTS PURSUANT TO AMENDMENT 64, APPROVED BY THE VOTERS OF THE STATE OF COLORADO AT THE NOVEMBER 6, 2012, GENERAL ELECTION, AND CODIFIED AS ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION, INCLUDING THE USE OF LAND FOR SUCH PURPOSE OR PURPOSES

Medical Marijuana - Motion to direct staff to come back within 120 days with a medical marijuana licensing and regulation scheme. City Manager Acre told Council that since the City has an existing prohibition on medical marijuana, the simplest way to introduce the possibility of allowing it is to leave that prohibition in place and direct staff to come back in 120 days with ordinances for the regulation for land use and licensing of medical marijuana. The ensuing two items are on the agenda if Council wanted to proceed immediately by repealing the prohibition and bring back regulations by March 1, 2014, which is not staff's recommendation. Mayor Baca Gonzalez asked if there is any deadline right now requiring Council to do something with medical marijuana. City Manager Acre answered there is not. Mayor Baca Gonzalez asked why we are doing it. Councilmember Bolton answered that Council wants to entertain the possibility of allowing medical marijuana. Councilmember Miles suggested two to three months is a realistic window for getting ordinances ready in talking with the City Manager and Attorney and so she would like to see ordinances within 90 days. That would allow three

them that show that not only do crime rates not increase but actually decrease in areas with concentrated marijuana establishments. Youth marijuana use has gone down. Regarding the blatant store fronts that he thought many on Council are envisioning, recalling Councilmember Mattie's comment about a casino quality taking over this town, according to the regulations from what they've read are very low-key establishments with a lot of restrictions on advertising. Really the only way to advertise is through the internet. Mr. Eanes said that a consideration should be driver's safety. He said he doesn't think it is in the best interest of the community to send people to Pueblo to buy their marijuana. When it goes legal in January, he questioned what people driving to Pueblo will do on their drive home with this marijuana they've purchased. If there were an establishment here in Trinidad they could stop in and buy the marijuana and drive home within a five-minute period and not endanger anybody on the road. He said they are advocating that they go somewhere else to spend their money, and those people will most likely get high and risk their own safety and the safety of others on the interstate.

E.R.A. McCarthey addressed Council. She said she's been following the issues surrounding recreational marijuana use. She said she hears a lot of people talking about it bringing revenue or that it will destroy the community. She suggested that before those things are considered we need to look at our resources. Ms. McCarthey said she's looking at this from a business standpoint. She explained that when a person starts a business they make sure they have everything in place that is needed to be successful. She continued that our community has so much division and so many struggles, there's division in the schools, and women can't have a baby in Trinidad, referencing her own experience of traveling to Pueblo to have a baby. There's so much that the community needs to fix here before we can put this on the table. Right now with so many struggles with the economy, if we could really build the Creative District or do something else and be known for that, then that would be something we could look at. Right now marijuana would not be a big draw for our community. Who would want to come here and build a recreational or medical marijuana facility if there are no young families, if there are no good schools to put their children in? Are those the kinds of people that we want to run our businesses? She reiterated that this needs to be looked at from a business standpoint and we need to decide what our resources are and if those resources can be built upon. We have so much going on in this town that we need to fix right away. She concluded that she thinks we just have to focus on it.

Lonnie Shelton addressed Council. He told Council that he is not a resident of Trinidad. He lives in Texas. However he said he has a vested interest in this community. For approximately the past nine years he said he and his wife have owned property in the Santa Fe Trail Ranch subdivision and it has been a special place for them. They have grown to appreciate and love this community. He quoted "sometimes I think you can be so close to the forest you can't see the trees." He explained that sometimes we find ourselves so close to an issue that we don't understand the issue or its impact. He said he thinks that is true sometimes in our personal lives and in organizations and businesses as well as in communities. You can be so close to an issue it is hard to clarify what the issue is. He said last week he and his wife came here to get some things for their house, unaware of what's going on in the community. They went out to eat that evening and everything they saw and heard revolved around two issues - the schools, which needs to get resolved quickly, and the marijuana issue. Mr. Shelton said it bothered him tremendously. He and his wife were supposed to be here three days so he wrote a letter that he provided to City Council.

**COUNCIL REPORTS.** Councilmember Bolton reported on her attendance at the Creative District quarterly meeting last Monday regarding the Colorado Creative Industries Downtown Assessment plan. She said there were 56 community members present at the meeting. Two top immediate issues were identified - branding and way-finding. She said she was happy to announce that the Creative District Steering Committee learned just this afternoon that CCI awarded us with 30 additional hours of technical assistance to move forward with these two issues. A consulting firm has been assigned to visit and work with them in either October or November. Councilmember Bolton thanked all who participated in last Monday's meeting and promised to keep everyone informed.

Councilmember Shew expressed his appreciation to the Trinidad Roundup Association for their presentation to the community of the annual rodeo and parade. He said they did a really good job and thanked them for their hard work. It was a real plus for the community.

Councilmember Mattie reported on his attendance of the SET meeting, the Raton Basin economic development group involving Colfax County, Raton, Trinidad and Las Animas County, Huerfano County and Walsenburg. He said he was the sole representative of Trinidad in attendance. It was a lengthy meeting during which the presenters documented and demonstrated what SET is and has been doing to the benefit of the entire basin. Their objectives are economic development and betterment of our way of life. He reported also on his attendance last week of the South Central Council of Governments' meeting as a representative of the City to that board. He said it was business as usual and they are looking for a new accountant because he is now with the City of Trinidad.

Councilmember Miles commented that there is quite a bit of activity with ARPA (Arkansas River Power Authority). She added that she spent a week visiting her mother in New York.

Councilmember Bonato said that last Friday night he and the Mayor manned the tourism trailer and handed out brochures and pamphlets. There were a lot of tourists who went by. Susanne Campbell, a local artist, was on hand painting porcelain. He said he was happy to see people out supporting our downtown. Councilmember Bolton was also there to relieve him and lock up the trailer.

Mayor Baca Gonzalez said she met with Louis Davis who wanted to meet with her in person to extend his sincere thanks and congratulations to members of Trinidad's law enforcement and fire department in connection to a very unusual situation that occurred with his wife's beauty salon. Apparently there was an odor of an electrical fire and the City's personnel figured out what the problem was and addressed it. Mr. Davis wanted the City to be sure we recognized the hard work. It really did have the potential of creating a serious electrical fire.

**REPORT BY CITY MANAGER.** Invitation. City Manager Acre called to Council attention at their seating places an invitation received from the Trinidad State Junior College Booster Club to attend their Appreciation Night and Banquet on September 11, 2013. He noted that it took some time apparently to receive the invitation by mail and asked any Council member interested in attending to contact Executive Secretary Anna Ridolfi to RSVP or they could themselves.

months to work on ordinances and one month for a first reading. City Attorney Downs said it is not just a matter of writing an ordinance, but staff would get it done in 90 days if that is Council's direction. He said we'll be adding an article and chapter to the municipal code. Council's feedback will be needed. Councilmember Miles said she would like to keep people's feet to the fire to get the ordinances teed up within 90 days on medical marijuana. Mayor Baca Gonzalez pointed out that the posted agenda title calls for 120 days and her proposal of 90 days may not be appropriate notice to the public if they proceeded with the 90 days. City Attorney Downs agreed. Councilmember Shew opined that it should be left at 120 days. Councilmember Mattie agreed adding that this is unchartered waters and 120 days gives us more time. Councilmember Miles said she'd like it to happen as quickly as possible within that 120 days. Councilmember Mattie said the City needs to do it and do it well. Let's regulate it and control it and do it as we intend so we manage it and it doesn't manage us. Councilmember Miles said that with respect to the motion directing staff to come back within 120 days with a medical marijuana licensing and regulation scheme, she doesn't want just a power point in that time frame, she wants an ordinance. City Manager Acre called to Council's attention the proposed motion in the agenda packet which Councilmember Miles noted calls for development of an ordinance. Councilmember Bolton pointed out that the contents of the packet reads "on or before March 1, 2014" but 120 days is the end of December. City Attorney Downs said that is the wrong number of days. Mayor Baca Gonzalez asked if this should be tabled. Councilmember Bolton moved to direct staff to develop an ordinance for the development of a land use code, and development of licensing regulations, for and in connection with, medical marijuana, on or before March 1, 2014. She noted that doesn't mean staff won't accomplish it quicker. Councilmember Miles said they won't and 120 days is a lot of time. The motion died for lack of a second. Councilmember Miles made a motion to direct staff to develop an ordinance for the development of a land use code, and development of licensing regulations, for and in connection with, medical marijuana, within 120 days. The motion was seconded by Councilmember Bolton. Roll call was taken and the following votes were cast:

Aye – Bolton, Mattie, Miles

Nay – Bonato, Shew, Baca Gonzalez

The motion failed. Councilmember Bolton asked if she could reinstate her motion to March 1, 2014. Mayor Baca Gonzalez expressed concern about Council acting on something that doesn't comply with the legally mandated posting that reads 120 days, and thought it could be subject to a legal challenge if it is modified. City Attorney Downs said there were a number of dates that conflicted and that it may be best to table the item since there is no specified time frame. He recommended it be tabled to the September 17<sup>th</sup> regular meeting. A consensus of Council thought the motion should be crafted to read March 1, 2014 for their consideration on September 17<sup>th</sup>. A motion to table this item to September 17<sup>th</sup> at 7:00 p.m. was made by Councilmember Bolton and seconded by Councilmember Shew. The motion carried unanimously. Councilmember Miles commented that she voted yes despite the fact that she'd like to see an ordinance much sooner than March 1, 2014, but understands that to be the majority's feeling on Council. Mayor Baca Gonzalez added that the City is in the middle of a lawsuit with Arkansas River Power Authority and the last thing they need to do is something that could be subject to a legal challenge and incur additional legal fees. The motion needs to match the posting.

First reading of an ordinance of the City Council of the City of Trinidad, Colorado, enacting Article 12, Chapter 14 of the code of Ordinances regarding retail marijuana local licensing authority, and setting a hearing date for consideration of said ordinance. City Attorney Downs told Council that there were two ordinances regarding the local licensing authority. The first ordinance is proposed if Council elected to allow retail marijuana; the second is if prohibiting it. He explained that similar to liquor licensing, there would be concurrent jurisdiction with retail marijuana licensing. The State however will take primacy. An applicant would apply first to the state and the City would consider the application second, opposite from the way alcohol beverage licenses are considered. City Manager Acre added that the first ordinance assumes approval of retail marijuana and the second one has an added sentence in the fifth where clause that says should retail marijuana be permitted in the future in the corporate City limits. Councilmember Mattie said since they approved the moratorium the second ordinance makes sense to consider and Councilmember Bolton added that that ordinance also references that the ordinance shall not become effective unless and until the licensing of retail marijuana is permitted within the corporate City limits of Trinidad. The ordinance was introduced by Councilmember Bolton and read aloud in its entirety. A motion to approve the ordinance on first reading and consider it further at a public hearing at 7:00 p.m. on September 17, 2013 was made by Councilmember Bolton and seconded by Councilmember Shew. Mayor Baca Gonzalez asked City Attorney Downs to summarize why Trinidad would want to be the licensing authority instead of the State. City Attorney Downs said that if the City approves licensing Council will want to have a public hearing based on the needs of the community, for example. Council will want to make sure local concerns are addressed. That will be done only after the state gives their approval for a license. Council as the local authority would have the concerns of the local community at heart. Mayor Baca Gonzalez summarized that Council would have more control than it just being up to the authorities in Denver. Councilmember Mattie said he envisions Denver being inundated with applications and asked who trumps should they approve someone that the local authority finds not to be in the best interest of the community. City Attorney Downs answered that Council would have full authority to reject licensing of an individual or entity. He reminded that Council will decide on licensing criteria such as time, place, and manner restrictions. The local restrictions can be more stringent but not less than those of the state. Applicants will come in with state approval first. Councilmember Mattie asked if he's correct that the state will have licensing criteria to be met first and subsequently Council can place more restrictive considerations above and beyond what the state requires. City Attorney Downs said that is correct. Councilmember Bonato asked if an applicant could circumvent the local licensing authority to obtain a retail marijuana license if they have a medical marijuana license. City Attorney Downs said they cannot with either type of license. It is still subject to the local authority's approval. Roll call was taken on the motion which carried by a unanimous vote.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO,  
ENACTING ARTICLE 12, CHAPTER 14 OF THE CODE OF ORDINANCES REGARDING  
RETAIL MARIJUANA LOCAL LICENSING AUTHORITY

First reading of an ordinance repealing and re-enacting Section 9-4 of the Trinidad City Code for the purpose of prohibiting the issuance of a business license to any person seeking to carry on or engage in any business within the corporate limits of the City of Trinidad that is in violation of the United States Constitution of any law of the State of Colorado, and setting a hearing date for consideration of said ordinance; AND First reading of an amending Chapter 14 of

the Code of the City of Trinidad, Colorado, for the purpose of authorizing future operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers, and setting a hearing date for consideration of said ordinance. Councilmember Bolton moved to table these two items to Council's next regular meeting at 7:00 p.m. on September 17, 2013. Councilmember Mattie seconded the motion which carried by a unanimous roll call vote.

**BILLS.** A motion to approve payment of the bills was made by Councilmember Bolton. The motion was seconded by Councilmember Miles. Roll call was taken on the motion and it carried unanimously.

**PAYROLL,** August 17, 2013 through August 30, 2013. A motion to approve the payroll was made by Councilmember Mattie and seconded by Councilmember Shew. The motion carried unanimously.

**ADJOURNMENT.** There being no further business to come before Council, a motion to adjourn the regular meeting was made by Councilmember Bolton and seconded by Councilmember Shew. The meeting was adjourned by unanimous voice vote of Council.

ATTEST:

BERNADETTE BACA GONZALEZ,  
Mayor

AUDRA GARRETT, City Clerk

7a-c



CITY OF TRINIDAD, COLORADO  
1876

## Council Communication

City Council Meeting: September 17, 2013  
Prepared: September 12, 2013  
Dept. Head Signature: 

# of Attachments: 5

**SUBJECT:** Consideration of Ordinances Concerning the Prohibition, Moratorium or Allowing Retail and/or Medical Marijuana Facilities in Trinidad.

**Presenter:** Tom Acre, City Manager and Les Downs, City Attorney

**Recommended City Council Action:** City Council must take action on second reading after holding Public Hearings for Ordinances considering the City's current Moratorium on Retail/Recreational Marijuana and State required action on whether to Designate Trinidad City Council as the Licensing and Regulatory Authority in regard to Retail Marijuana Facilities. These actions are required at this time so they will become effective by October 1, 2013.

In addition City Council could elect to take action regarding the current prohibition on Medical Marijuana Facilities.

**Summary Statement:** At the September 3, 2013 City Council meeting, City Council considered several ordinances regarding retail/recreational and medical marijuana. City Council passed on first reading the following ordinances regarding retail/recreational marijuana:

- An ordinance of the City Council of the City of Trinidad, Colorado, providing for a moratorium until June 30, 2014, on the submission, acceptance or processing of applications and the licensing, permitting, establishment or operation of any recreational marijuana business that sells, cultivates, manufactures, prepares, packages, purchases, tests, or otherwise provides for or allows the use of marijuana or marijuana products pursuant to Amendment 64, approved by the voters of the State of Colorado at the November 6, 2012, General Election, and codified as Article XVIII, Section 16 of the Colorado Constitution, including the use of land for such purpose or purposes.
- An ordinance of the City Council of the City of Trinidad, Colorado, enacting Article 12, Chapter 14 of the Code of Ordinances regarding retail marijuana local licensing authority

7a-c

City Council also considered and tabled until September 17, 2013 consideration of a motion and two ordinances concerning our current ban on medical marijuana and requested staff bring these back to City Council for consideration and potential action.

- Motion to direct staff to develop an ordinance for the development of a land use code, and development of licensing regulations, for and in connection with, medical marijuana, on or before March 1, 2014
- An ordinance removing an effective ban relative to licensing consistent with the Oath of Office by repealing and re-enacting Section 9-4 of the Trinidad City Code for the purpose of prohibiting the issuance of a business license to any person seeking to carry on or engage in any business within the corporate limits of the City of Trinidad that is in violation of the United States Constitution of any law of the State of Colorado, and setting a hearing date for consideration of said ordinance.
- An ordinance to repeal prohibition until regulations are established but not to extend beyond March 1, 2014 by amending Chapter 14 of the Code of the City of Trinidad, Colorado, for the purpose of authorizing future operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers, and setting a hearing date for consideration of said ordinance

**Expenditure Required:** Expenditure of funds is not required at this time.

**Source of Funds:** N/A

**Policy Issue:** Should retail and/or medical marijuana facilities be licensed and regulated in the City of Trinidad.

**Alternative:** City Council can either approve or not approve on second reading ordinances related to retail/recreational marijuana. City Council could take no action, approve, not approve or could request modifications be made to the motion and/or ordinances related to medical marijuana.

**Background Information:** Information regarding the licensing and regulation of recreational and medical marijuana was previously provided to City Council related to the August 13, 2013 work session. Additional information from CML was forwarded via e-mail as follow up to the August 13, 2013 work session. Hard copies of the following information for reference are provided as an attachment to these documents:

- Retail Marijuana Municipal Actions Table
- Sample CML Local Licensing Authority Ordinance
- Criminal Code Deletions from SB 283
- Centennial Moratorium and Personal Grow Regulations
- Foxfield Cultivation of Marijuana in Structures for Personal Use
- Leadville Marijuana Licensing Authority Ordinance

At the August 13, 2013 City Council Work Session Ms. Rachel Allen from CML provided City Council with information regarding the licensing and regulation of recreational marijuana. City Council had discussion regarding licensing and regulation of marijuana specific to the City of

Trinidad. City Council Members expressed interest in continuing the discussion in a special work session prior to taking action on September 3, 2013.

At the August 20, 2013 Special Work Session, City Council continued discussion regarding the licensing and regulation of marijuana in the City of Trinidad. City Council requested a Work Session be scheduled to allow for public input regarding the licensing and regulation of marijuana in the City of Trinidad prior to considering any ordinance(s) related to marijuana. A public input session was scheduled for the August 27, 2013 Work Session.

Staff prepared drafts for City Council's review, consideration and discussion that reflect several options that City Council could elect to take regarding the licensing and regulation of marijuana in the City of Trinidad. The draft ordinance options include:

- Enacting a moratorium regarding the licensing and operation of marijuana facilities in Trinidad.
- Establishing Trinidad as the licensing authority for marijuana if City Council should elect at to allow marijuana facilities now or in the future.
- Enacting a ban on recreational marijuana.
- Enacting an ordinance to allow the licensing of medical and/or recreational facilities.

October 1, 2013 is the date by which communities in Colorado are required to take action on whether they will be the licensing agent for recreational marijuana for their community or do they want the state to serve in that role. Determination of whether to allow and regulate marijuana can be made at a later date by imposing a moratorium at this time. City Council can also elect to continue to not allow medical marijuana facilities and to not allow recreational and/or grow facilities.



CITY OF TRINIDAD, COLORADO

**ORDINANCE NO.**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, PROVIDING FOR A MORATORIUM UNTIL JUNE 30, 2014, ON THE SUBMISSION, ACCEPTANCE OR PROCESSING OF APPLICATIONS AND THE LICENSING, PERMITTING, ESTABLISHMENT OR OPERATION OF ANY RECREATIONAL MARIJUANA BUSINESS THAT SELLS, CULTIVATES, MANUFACTURES, PREPARES, PACKAGES, PURCHASES, TESTS, OR OTHERWISE PROVIDES FOR OR ALLOWS THE USE OF MARIJUANA OR MARIJUANA PRODUCTS PURSUANT TO AMENDMENT 64 APPROVED BY THE VOTERS OF THE STATE OF COLORADO AT THE NOVEMBER 6, 2012, GENERAL ELECTION, AND CODIFIED AS ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION, INCLUDING THE USE OF LAND FOR SUCH PURPOSE OR PURPOSES

WHEREAS, at the November 6, 2012, general election, the voters of the State of Colorado adopted Amendment 64 to the Colorado Constitution ("Amendment 64") which is codified as Article XVIII, § 16 of the Colorado Constitution; and

WHEREAS, Amendment 64 permits persons twenty-one years of age and older to possess, use, display, purchase or transport one ounce or less of marijuana, or marijuana accessories, to grow limited amounts of marijuana and manufacture and sell marijuana accessories; and

WHEREAS, Amendment 64 also provides for the establishment of marijuana establishments, which include cultivating, testing and product manufacturing facilities, and retail marijuana stores; and

WHEREAS, Amendment 64 requires that by no later than July 1, 2013, the Colorado Department of Revenue shall adopt regulations to implement Amendment 64; and

WHEREAS, Amendment 64 provides that by October 1, 2013, the Colorado Department of Revenue is to begin accepting and processing license applications for marijuana establishments; and

WHEREAS, the continued imposition of a moratorium until June 30, 2014, on the submission, acceptance or processing of applications and the licensing, permitting, establishment or operation of any recreational marijuana business that sells, cultivates, manufactures, prepares, packages, purchases, tests, or otherwise provides for or allows the use of marijuana or marijuana products pursuant to Amendment 64, including the use of land for such purpose or purposes, is reasonable and necessary for the City to develop, if necessary, its own licensing scheme for marijuana establishments and to have had an opportunity to investigate, develop, adopt and implement, and if necessary amend regulations it deems appropriate to regulate recreational marijuana businesses as necessary to protect the public's health safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO:

Section 1. The foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the City Council of the City of Trinidad, Colorado.

Section 2. Upon the adoption of this Ordinance a moratorium is imposed until June 30, 2014, on the submission, acceptance, or processing of applications and the licensing, permitting, establishment or operation of any recreational marijuana business that sells, cultivates, manufactures, prepares, packages, purchases, tests, or otherwise provides for or allows the use of marijuana or marijuana products pursuant to Amendment 64 approved by the voters of the State of Colorado at the November 6, 2012, general election and codified as Article XVIII, § 16 of the Colorado Constitution, and upon the use of land for such purpose or purposes.

Section 3. During the pendency of this moratorium, City staff shall review all laws and regulations enacted by the state or actions of the federal government regarding recreational marijuana businesses and advise Council of the same and, if so directed by Council, prepare ordinances and or regulations with respect to the time, place, manner, licensing and other regulations regarding recreational marijuana businesses.

Section 4. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 5. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 6. The repeal or modification of any provision of the Code of Ordinances of the City of Trinidad, Colorado, by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose or sustaining any and all proper actions, suits, proceeding and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 7. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

INTRODUCED BY COUNCILMEMBER BOLTON, READ AND ORDERED PUBLISHED this 3<sup>rd</sup> day of September, 2013;

FINALLY PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_.

EFFECTIVE DATE OF THIS ORDINANCE SHALL BE the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

CITY OF TRINIDAD, COLORADO

\_\_\_\_\_  
BERNADETTE BACA GONZALEZ, Mayor

ATTEST:

By: \_\_\_\_\_  
AUDRA GARRETT, City Clerk



**CITY OF TRINIDAD, COLORADO**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO ENACTING ARTICLE 12, CHAPTER 14 OF THE CODE OF ORDINANCES REGARDING RETAIL MARIJUANA LOCAL LICENSING AUTHORITY**

WHEREAS, on November 7, 2012, the voters of the State of Colorado approved Section 16 of Article XVIII of the Colorado Constitution, which authorized the personal use and possession of recreational marijuana for adults; and

WHEREAS, on May 28, 2013, the governor signed House Bill 13 -1317 into law enacting Title 12, Article 43.4 of the Colorado Revised Statutes (the "Colorado Retail Marijuana Code"), which regulates the cultivation, manufacture, distribution, and sale of retail marijuana; and

WHEREAS, the Colorado Retail Marijuana Code states that on or after October 1, 2013, businesses engaged in the cultivation, manufacture, or sale of marijuana or in the processing of marijuana-infused products shall apply for a license subject to its terms and conditions and any rules promulgated pursuant thereto; and

WHEREAS, the Colorado Constitution also authorizes counties and municipalities in Colorado to prohibit or regulate retail marijuana businesses and to adopt regulations consistent with the intent of the state law; and

WHEREAS, in order to comply with the Retail Marijuana Code and the new state licensing scheme, the Trinidad City Council has determined it necessary to create a new Article 12, Chapter 14, of the Trinidad Municipal Code, should retail marijuana manufacture, distribution and/or sale be permitted within the corporate City limits of Trinidad at any time in the future.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, THAT:

Section 1: Retail Marijuana Licensing Authority.

(1) The City Council hereby finds, determines and declares that it has the power to adopt this Article pursuant to:

- (a) Section 12-43.4-101, et seq., C.R.S. (known as the Retail Marijuana Code);
- (b) Section 31-15-103, C.R.S. (concerning municipal police powers);
- (c) Section 31-15-401, C.R.S. (concerning municipal police powers);

(d) Section 31 -15 -501, C.R.S. (concerning municipal authority to regulate businesses).

(2) The City Council shall be the local licensing authority of the City for the licensing of retail marijuana centers, pursuant to this Article, unless the City Council designates other persons to serve as the local licensing authority by ordinance. The local licensing authority shall possess all powers given to local licensing authorities by the provisions of the Colorado Retail Marijuana Code and rules and regulations promulgated thereunder. Any decision made by the local licensing authority to grant or deny a license, to revoke or suspend a license, or to renew or not renew a license shall be a final decision and may be appealed to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(3) Article 12, Chapter 14, is hereby enacted as follows:

## **CHAPTER 14**

### **ARTICLE 12. MARIJUANA LICENSING AUTHORITY**

#### Section 1. Creation.

There shall be and is hereby created a Retail Marijuana Licensing Authority, hereafter referred to in this Article as the "Authority".

#### Section 2. Composition.

The Authority shall be the City Council.

#### Section 3. Functions.

(a) The Authority shall have the duty and authority pursuant to the Colorado Retail Marijuana Code and this Article to grant or refuse licenses in the manner provided by law.

(b) The Authority shall have all the powers of a Local Licensing Authority as set forth in the Colorado Retail Marijuana Code.

(c) The Authority shall have the power to promulgate rules and regulations concerning the procedures for hearings before the Authority.

(d) The Authority shall have the power to require any applicant or licensee to furnish any relevant information required by the Authority.

(e) The Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records at any hearing which the Authority is authorized to conduct. Any such subpoena shall be served in the same manner as a subpoena issued by the District Court of the State.

(f) The local licensing authority shall possess all powers given to local licensing authorities by the provisions of the Colorado Retail Marijuana Code and rules and regulations promulgated thereunder. Any decision made by the local licensing authority to grant or deny a license, to revoke or suspend a license, or to renew or not renew a license shall be a final decision and may be appealed to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

Section 4. Application for licensure.

All applications for licensure shall be filed with the City Clerk.

Section 5. Safety Clause. The City Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the City of Trinidad, that it is promulgated for the health, safety and welfare of the public and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that this Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 6. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 7. Effective Date. This ordinance shall not become effective unless and until the licensing of retail marijuana is permitted within the corporate City limits of Trinidad.

INTRODUCED BY COUNCILMEMBER BOLTON, READ AND ORDERED  
PUBLISHED THIS 3rd DAY OF SEPTEMBER, 2013.

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.

THE EFFECTIVE DATE OF THIS ORDINANCE SHALL BE the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

CITY OF TRINIDAD

\_\_\_\_\_  
BERNADETTE BACA GONZALEZ, Mayor

ATTEST:

\_\_\_\_\_  
AUDRA GARRETT, City Clerk

MOTION DIRECTING STAFF REGARDING MEDICAL MARIJUANA:

I MOVE THAT WE DIRECT STAFF TO DEVELOP AN ORDINANCE FOR THE DEVELOPMENT OF A LAND USE CODE, AND DEVELOPMENT OF LICENSING REGULATIONS, FOR AND IN CONNECTION WITH, MEDICAL MARIJUANA, ON OR BEFORE MARCH 1, 2014.



CITY OF TRINIDAD, COLORADO

ORDINANCE NO.

AN ORDINANCE REPEALING AND RE-ENACTING SECTION 9-4 OF THE TRINIDAD CITY CODE FOR THE PURPOSE OF PROHIBITING THE ISSUANCE OF A BUSINESS LICENSE TO ANY PERSON SEEKING TO CARRY ON OR ENGAGE IN ANY BUSINESS WITHIN THE CORPORATE LIMITS OF THE CITY OF TRINIDAD THAT IS IN VIOLATION OF THE UNITED STATES CONSTITUTION OR ANY LAW OF THE STATE OF COLORADO

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, that:

Section 1. Amendment. Chapter 9, Article 1, § 9-4, of the Trinidad City Code is hereby repealed and re-enacted to read in its entirety as follows:

Section 9-4. License Required.

It shall be unlawful for any person to carry on or engage in any business within the corporate limits of the City of Trinidad without first having obtained a license therefor from the City Clerk. No license shall be issued to any person seeking to carry on or engage in any business within the corporate limits of the City of Trinidad that is in violation of the United States Constitution or any law of the State of Colorado.

Section 2. Effective Date. This Ordinance shall be published and become effective ten (10) days after final passage, as provided in § 5.5 of the Home Rule Charter for the City of Trinidad, Colorado.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of September, 2013.

FINALLY PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

EFFECTIVE DATE OF THIS ORDINANCE SHALL BE the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

CITY OF TRINIDAD, COLORADO

BERNADETTE BACA GONZALEZ, Mayor

ATTEST:

By: \_\_\_\_\_ AUDRA GARRETT, City Clerk



## CITY OF TRINIDAD, COLORADO

### ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 14 OF THE CODE OF THE CITY OF TRINIDAD, COLORADO, FOR THE PURPOSE OF AUTHORIZING FUTURE OPERATION OF MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISES CULTIVATION OPERATIONS, AND MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURERS

WHEREAS, in the November 2000 general election, the voters of the state of Colorado approved the enactment of Article XVIII, § 14, of the Colorado Constitution ("Amendment 20") which authorizes individuals with debilitating medical conditions to obtain and use medical marijuana without fear of criminal prosecution; and

WHEREAS, during its 2010 Regular Session, the Colorado General Assembly adopted House Bill 10-1284 which added a new Article 43.3 to Title 12 of the Colorado Revised Statutes, to be known as the Colorado Medical Marijuana Code; and

WHEREAS, the Colorado Medical Marijuana Code clarifies Colorado law regarding the scope and extent of Article XVIII, § 14, of the Colorado Constitution and establishes a regulatory scheme for the retail sale, distribution, cultivation, and dispensing of medical marijuana and related products; and

WHEREAS, the City Council continues to recognize the protections afforded by Article XVIII, § 14, of the Colorado Constitution and affirms the ability of patients and primary caregivers to otherwise be afforded the protections of Article XVIII, § 14, of the Colorado Constitution and § 25-1.5-106, C.R.S.; and

WHEREAS, the City Council of the City of Trinidad, Colorado, has carefully considered Article XVIII, § 14, of the Colorado Constitution, the Colorado Medical Marijuana Code, and has had time to observe the effects of the resulting operations since the passage of said Article in neighboring Colorado counties and municipalities, and has determined as an exercise of its local land use authority that such medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturing should be permitted upon the adoption of appropriate land use and licensing regulations in the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, that:

**Section 1. Land Use Regulations Repealed and Re-enacted.** Chapter 14, Article 11, Section 14-189, Intent, Authority, and Applicability, and Section 14-190, Uses Prohibited, of the Code of the City of Trinidad, Colorado, is hereby repealed and re-acted to read in its entirety as follows:

### ARTICLE 11. MEDICAL MARIJUANA

#### Section 14-189. Intent, Authority, and Applicability.

- (1) Intent. It is the intent of this amendment to set forth a time line by which the City will adopt proper land use regulations and regulatory laws for the operation of medical marijuana center, an optional premises cultivation operation, or a medical marijuana-infused products manufacturing facility in the City. Land use and regulatory local laws shall be adopted by the Trinidad City Council prior to March 1, 2014. No applications will be accepted, received or processed to allow medical marijuana facility operation

prior to the adoption of land use regulations and regulatory laws specific to medical marijuana as referenced in this Section 14-189(1).

- (2) Authority. The City's authority to adopt this Article is found in the Colorado Medical Marijuana Code, § 12-43.3-101 *et seq.*, C.R.S.; the Local Government Land Use Enabling Act, § 29-20-101 *et seq.*, C.R.S.; § 31-23-101 *et seq.*, C.R.S. (municipal zoning powers); §§ 31-15-103 and 31-15-401, C.R.S. (municipal police powers); and § 31-15-501, C.R.S. (municipal authority to regulate businesses).
- (3) Said regulations and laws will apply to all property in the City.

**Section 14-190. Uses Prohibited.**

- (1) It is unlawful for any person to operate, cause to operate, or permit to be operated a medical marijuana center, an optional premises cultivation operation, or a medical marijuana-infused products manufacturing facility in the City of Trinidad until such time that proper land use regulations and regulatory laws are adopted and without having obtained a license from the City Clerk therefor.
- (2) Nothing in this Section shall be construed to prohibit, regulate, or otherwise impair the protections of the use of medical marijuana by patients as provided in Article XVIII, § 14, of the Colorado Constitution, or the provision of medical marijuana by a primary caregiver to a patient in accordance with Article XVIII, § 14, of the Colorado Constitution, the Colorado Medical Marijuana Code, and rules promulgated thereunder.

**Section 2. Severability.** If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 3. Effective Date.** This ordinance shall be published and become effective ten (10) days after final passage, as provided in § 5.5 of the Home Rule Charter for the City of Trinidad, Colorado.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_, READ AND ORDERED  
PUBLISHED this \_\_\_\_\_ day of September, 2013.

FINALLY PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

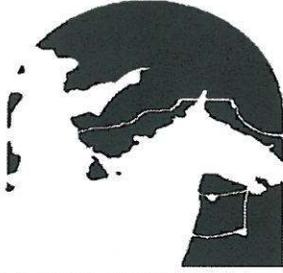
EFFECTIVE DATE OF THIS ORDINANCE SHALL BE the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

CITY OF TRINIDAD, COLORADO

\_\_\_\_\_  
BERNADETTE BACA GONZALEZ, Mayor

ATTEST:

By: \_\_\_\_\_  
AUDRA GARRETT, City Clerk



CITY OF TRINIDAD, COLORADO  
1876

## COUNCIL COMMUNICATION

8a

**CITY COUNCIL MEETING:** September 17, 2013  
**PREPARED BY:** Audra Garrett, City Clerk  
**DEPT. HEAD SIGNATURE:** *Audra Garrett*  
**# OF ATTACHMENTS:** 6

**SUBJECT:** Hotel and restaurant liquor license renewal request by El El Si, LLC d/b/a Main Street Tap House at 308 W. Main Street

**PRESENTER:** El El Si, LLC

**RECOMMENDED CITY COUNCIL ACTION:** Consider renewal of the license

**SUMMARY STATEMENT:** N/A

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** N/A

**ALTERNATIVE:** N/A

### BACKGROUND INFORMATION:

- The renewal application is in order.
- No concerns were raised with respect to annual inspection by the Fire Department and Building Inspector.
- The Police Department had no calls for service to report relative to this licensee.
- The Health Department indicated the licensee's compliance.
- Disclosure statements provided by Council members Miles and Velasquez are attached.
- Appropriate fees have been paid.

8a

**LIQUOR OR 3.2 BEER LICENSE  
 RENEWAL APPLICATION**

MAIN ST. TAP HOUSE  
 414 RIATA DR  
 TRINIDAD CO 81082-3964

Fees Due	
Renewal Fee	\$500.00
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
<b>Amount Due/Paid</b>	<b>500.00</b>

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

**PLEASE VERIFY & UPDATE ALL INFORMATION BELOW**

**RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE**

Licensee Name EL EL SI LLC		DBA MAIN ST. TAP HOUSE		
Liquor License # 42641550000	License Type Hotel & Restaurant (city)	Sales Tax License # 42641550000	Expiration Date 10/8/2013	Due Date 8/24/2013
Street Address 308 W MAIN ST TRINIDAD CO 81082-2622				Phone Number (719) 510-9702
Mailing Address <del>414 RIATA DR TRINIDAD CO 81082-3964</del> 314 W. Main St TRINIDAD, CO 81082				
Operating Manager Jason Carluccio	Date of Birth [REDACTED]	Home Address [REDACTED] PHOENIX AZ 85081	Phone Number [REDACTED]	

- Do you have legal possession of the premises at the street address above?  YES  NO  
 Is the premises owned or rented?  Owned  Rented\* \*If rented, expiration date of lease 9/2014
- Since the date of filing of the last annual application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested.  YES  NO  
**NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS:** If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation:  YES  NO
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation.  YES  NO
- Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation.  YES  NO
- SOLE PROPRIETORSHIPS, HUSBAND-WIFE PARTNERSHIPS AND PARTNERS IN GENERAL PARTNERSHIPS:** Each person must complete and sign the DR 4679: Affidavit - Restriction on Public Benefits (available online or by calling 303-205-2300) and attach a copy of their driver's license, state-issued ID or valid passport.

**AFFIRMATION & CONSENT**  
 I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business Jason S. Carluccio	Title President
Signature 	Date 8/21/2013

**REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY**  
 The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. **THEREFORE THIS APPLICATION IS APPROVED.**

Local Licensing Authority For TRINIDAD	Date
Signature	Title MAYOR
	Attest

8/28/13

DEPARTMENTAL INSPECTION REPORT  
3.2% BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE

Applicant: El El Si, LLC

dba: Main Street Tap House

Address: 308 E. Main Street

Type of License: Hotel and Restaurant

Renewal  Transfer  Change of Location  New  Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: September 17, 2013

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

Call 846-7865 for access

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

9/4/13  
Date

Chief Anthony Trammell  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: September 11, 2013

8/28/13

DEPARTMENTAL INSPECTION REPORT  
3.2% BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE

Applicant: El El Si, LLC

dba: Main Street Tap House

Address: 308 E. Main Street

Type of License: Hotel and Restaurant

Renewal  Transfer  Change of Location  New  Special Event

FOR CONSIDERATION AT  
COUNCIL MEETING DATE: September 17, 2013

\*\*\*\*\*

DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

Call 846-7865 for access

COMMENTS: ~~Resto get done~~ mistaged

(fire extinguishers appear to have been mistaged by certifier -  
3 tagged for 4/2014 / 2 tagged for 9/2013).

9-4-2013  
Date

Cheri S. Kelly  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: September 11, 2013

8/28/2013

**DEPARTMENTAL INSPECTION REPORT  
3.2 % BEER (FERMENTED MALT BEVERAGE)  
OR LIQUOR LICENSE**

Applicant's Name: El El Si, LLC

DBA: Main Street Tap House

Business Address: 308 W. Main

Type of License: Hotel and restaurant

Renewal     Transfer     Change of Location     New     Special Event

FOR CONSIDERATION AT

COUNCIL MEETING DATE: September 27, 2013

\*\*\*\*\*

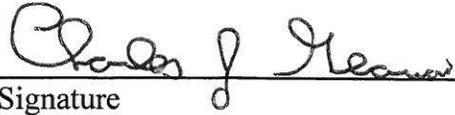
DEPARTMENT REVIEW

DEPARTMENT: FIRE / INSPECTION / POLICE / HEALTH DEPARTMENT

COMMENTS:

No reports

9-11-13  
Date

  
Signature

RETURN TO THE CITY CLERK'S OFFICE BEFORE: September 11, 2013

**Audra Garrett**

---

**From:** John Martinez [jmartinez@la-h-health.org]  
**Sent:** Thursday, August 29, 2013 4:02 PM  
**To:** Audra Garrett  
**Subject:** RE: liquor

Hi Audra,  
El El Si, LLC d/b/a/ Main Street Tap House at 308 W. Main Street, is in compliance with this Office. If anything else is needed please let me know.....John

John Martinez  
Environmental Health Specialist III  
[jmartinez@la-h-health.org](mailto:jmartinez@la-h-health.org)

**Las Animas-Huerfano Counties District Health Department**

Trinidad Office

412 Benedicta Ave  
Trinidad, CO 81082  
(Ph) 719-846-2213  
(Fax)719-846-4472

Walsenburg Office

119 E. Fifth Street  
Walsenburg, CO 81089  
(Ph)719-738-2650  
(Fax)719-738-2653

**From:** Audra Garrett [<mailto:audra.garrett@trinidad.co.gov>]  
**Sent:** Thursday, August 29, 2013 12:00 PM  
**To:** John Martinez  
**Subject:** liquor

Hi John,  
Please confirm compliance with your office for El El Si, LLC d/b/a Main Street Tap House at 308 W. Main Street. Thank you.

*Audra Garrett, City Clerk*  
*City of Trinidad*  
*135 N. Animas Street*  
*Trinidad, CO 81082*  
*(719) 846-9843 ext. 135*  
*(719) 846-4140 fax*  
*[audra.garrett@trinidad.co.gov](mailto:audra.garrett@trinidad.co.gov)*



DISCLOSURE STATEMENT

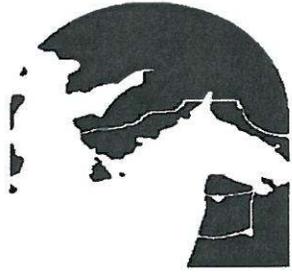
I, Linda Velasquez, hereby state and affirm that I am a member of Gino's Sports Bar, LLC, a Colorado limited liability company formed on September 9, 2011, whose principal office address is 310 Spruce Street, Trinidad, Colorado, 81082; that said limited liability company owns and operates Gino's Sports Bar, a tavern licensed entity, licensed under Title 12, Articles 46 or 47, CRS 1973, as amended of the State of Colorado and under Chapter 3 of the Municipal Code of the City of Trinidad, located at 991 E. Main Street, in the City of Trinidad, County of Las Animas, State of Colorado; that I hold a 25% interest in Gino's Sports Bar, LLC; and, that I am able to act independently upon liquor licensing matters that come before the Trinidad City Council, the local liquor licensing authority, of which I am a member.

  
Linda Velasquez  
12/4/12  
Date

DISCLOSURE STATEMENT

I, Michelle Miles, hereby state and affirm that I am a member of Opera House Wine & Spirits, LLC, a Colorado limited liability company formed on February 22, 2010, whose principal office address is 601 W. Main Street, Trinidad, Colorado, 81082; that said limited liability company owns and operates Tire Shop Wine & Spirits, a retail liquor store licensed entity, licensed under Title 12, Articles 46 or 47, CRS 1973, as amended of the State of Colorado and under Chapter 3 of the Municipal Code of the City of Trinidad, located at 601 W. Main Street, in the City of Trinidad, County of Las Animas, State of Colorado; that I hold a 99% interest in Opera House Wine & Spirits, LLC; and, that I am able to act independently upon liquor licensing matters that come before the Trinidad City Council, the local liquor licensing authority, of which I am a member.

  
Michelle Miles  
12/4/12  
Date



CITY OF TRINIDAD, COLORADO  
1876

## COUNCIL COMMUNICATION

**CITY COUNCIL MEETING:** September 17, 2013  
**PREPARED BY:** Anna Ridolfi, Executive Assistant  
**DEPT. HEAD SIGNATURE:**   
**# OF ATTACHMENTS:** 2

**SUBJECT:** 2014 Property Casualty and Workers' Compensation Preliminary Contribution Quotations

**PRESENTER:** Tom Acre, City Manager

**RECOMMENDED CITY COUNCIL ACTION:** Staff is requesting City Council approval of the 2014 Property Casualty and Workers' Compensation Preliminary Quotations.

**SUMMARY STATEMENT:** CIRSA has provided property/casualty and workers' compensation coverage for the City of Trinidad for over twenty-five years.

**EXPENDITURE REQUIRED:** \$666,672

**SOURCE OF FUNDS:** To be allocated within the 2014 Operating Budget

**POLICY ISSUE:** Property/casualty and workers' compensation coverage.

**ALTERNATIVE:** The City of Trinidad could choose to withdraw membership from CIRSA and request that staff seek alternative coverage for proper/casualty and workers' compensation.

### BACKGROUND INFORMATION:

CIRSA uses individually experience rates each of their members to determine premium cost. The effect of our entity's individual experience is shown on the attached quotation as the "Impact of Loss Experience." CIRSA has authorized qualifying members to utilize a portion of their member equity account balance to reduce their 2014 contribution. The City of Trinidad has been successful at using loss control techniques to control our losses allowing an applicable credit on our 2014 contribution. The 2014 contribution amount reflects a 7 ½ % increase over 2013.

**CIRSA Property/Casualty Pool  
Preliminary 2014 Contribution Quotation for:  
Trinidad**

Current Deductibles:

	Auto			
Liability *	Auto Liability	Physical Damage	Property **	To Continue with This Deductible Option for 2014 Initial Here:
\$1,000	\$1,000	\$1,000	\$1,000	

*(or choose another option below)*

Contribution Before Reserve and Loss Experience: \$283,701  
 Reserve Fund Contribution: \$0  
 Impact of Loss Experience: \$25,900  
 Total 2014 Preliminary Quotation Before Credits: \$309,601

*Credit Options: You must write in the amount that you wish to use. Amounts may be split between available options.*

	Credit PC Contribution	Deposit / Leave in Account	Send Check	Credit WC Contribution
2013 Loss Control Audit Credit:				
Balance Remaining from Prior Year's LC Credits:				
PC Member Equity Account Adjustment:				
	(\$3,345)			
	\$0			
	(\$7,593)			

**Preliminary Quotation at Current Deductible  
With All Available Credits Applied: \$298,663**

Or, select a different deductible option:  
*You did not request any other deductible options. Contact your Underwriting Representative if you are interested in other options.*

**CIRSA Workers' Compensation Pool  
Preliminary 2014 Contribution Quotation for:  
Trinidad**

*To Continue This Deductible/SCP  
Option for 2014 Initial Here:*

Current Deductible or SCP:  *(or choose another option below)*

Contribution Before Reserve and Loss Experience: \$265,145  
 Reserve Fund Contribution: \$21,479  
 Impact of Loss Experience: \$91,272  
 Total 2014 Preliminary Quotation Before Credits: **\$377,896**

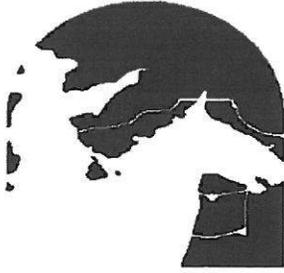
*Credit Options: You must write in the amount that you wish to use. Amounts may be split between available options.*

2013 Loss Control (LC) Audit Credit:	(\$9,887)				
Balance Remaining from Prior Years' LC Credits:	\$0				
		Credit WC	Deposit / Leave	Send	Credit PC
		Contribution	in Account	Check	Contribution

**Preliminary Quotation At Current Deductible  
With All Available Credits Applied: \$368,009**

Or, select a different deductible option:  
*You did not request any other deductible options. Contact your Underwriting Representative if you are interested in other options.*

8C



CITY OF TRINIDAD, COLORADO  
1876

## COUNCIL COMMUNICATION

**CITY COUNCIL MEETING:** September 17, 2013  
**PREPARED BY:** Andra Garrett, City Clerk  
**DEPT. HEAD SIGNATURE:** *Andra Garrett*  
**# OF ATTACHMENTS:** 1

**SUBJECT:** Setting of Public Hearing date for Capital Budget Estimates and 2014 Annual Budget (10/15/13)

**PRESENTER:** Tom Acre

**RECOMMENDED CITY COUNCIL ACTION:** Consider setting the public hearing for the Capital Budget Estimates and 2014 Annual Budget for October 15, 2013

**SUMMARY STATEMENT:** The requirement that the hearing be set is set out in the Home Rule Charter.

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** Setting public hearings for the 2014 budget.

**ALTERNATIVE:** Council could select an alternative date. The thought behind selecting October 15, 2013 is to get public input earlier rather than later in the budget process.

### BACKGROUND INFORMATION:

The City's Home Rule Charter requires that the annual budget and capital budget estimates be made available to the public when they are provided to Council at the first meeting in October of each year. This year that meeting falls on October 1<sup>st</sup>. Council shall within 14 days after the filing of the budget estimates set public hearings on the same. Publication of the hearings will be made at the earliest possible date once the hearings are set.

8C

## CHAPTER IX

### BUDGET CONTROL AND FINANCING

9.1 Fiscal, Budget and Accounting Year. The budget, fiscal and accounting year shall be the same as the calendar year.

9.2 Annual Budget Estimates. On or before the first day of August the City department heads shall submit a proposed budget for the next ensuing budget year. On or before the first Tuesday in October of each year the City Manager shall submit to the Council a proposed budget for the next ensuing budget year with an explanatory message. The proposed budget shall provide a complete financial plan for the City, prepared in accordance with accepted accounting principles, and shall include the following:

(a) Proposed expenditures for each office, department and agency for the ensuing fiscal year;

(b) Debt service requirements for the ensuing fiscal year;

(c) An estimate of the amount of anticipated income from all sources during the ensuing fiscal year, including estimated cash surplus at the end of the current year;

(d) A general budget summary which will show each fund's estimated revenues by source, and estimated expenditures by organization units, activities, character, and object. The budget shall be so arranged so as to show comparative figures for receipts

9.3 and expenditures for the last completed fiscal year, for the current year, and the City Manager's recommendations for the ensuing year.

9.4 Capital Budget Estimates. As a part of the budget message or as a separate report attached thereto, the City Manager shall also present a program of proposed capital projects for the ensuing year and the four (4) fiscal years thereafter. Estimates of the cost of such projects shall be submitted together with suggested methods of financing the same. In such proposed programs, the City Manager shall include those projects previously considered by the Planning Commission, but he/she may recommend the omission or deferment of projects proposed by the Planning Commission, giving the reasons therefore. In order to facilitate the carrying out of the capital budget plan the Council may create a capital budget fund. Monies may be appropriated to this fund directly or by transfer from the general fund, and may be accumulated, invested, and expended only for capital projects, including the purchase of land, buildings, or equipment and the construction or improvement of public works.

9.4 Public Record, Hearings. The aforesaid annual budget and capital budget estimates shall be a public record and open to the public for inspection. The Council shall, within fourteen (14) days after the filing of said budget estimates, set a time for individual public hearings on the annual budget and capital budget estimates. These hearings may be held on the same day. Council shall cause notice of such public hearings to be given by publication. At the hearings all persons may appear and object to any or all items and

estimates in the proposed budgets. Upon completion of the public hearing the Council may revise the budget estimates.

9.5

**Adoption of Budget.** After said public hearing and before the last day of December in each year, the Council shall pass the "Annual Appropriation Ordinance" in which shall be appropriated such sums of money as the Council deems necessary to defray all expenses and liabilities of the City during the ensuing budget year. The annual appropriation ordinance shall be based upon the budget as adopted but need not be itemized further than by departments and the major divisions thereof, and by each independent office and agency. Upon final adoption the budget shall be in effect for the budget year.

9.6

**Lapsed Appropriations.** All appropriations unexpended or unencumbered at the end of the budget year shall lapse to the applicable general or special fund.

9.7

**Budget Limitation, Appropriation of Excess Revenues and Transfer of Appropriations.** The City's expenditures in any one year shall not be exceeded in any fund above the amount provided for in the annual budget. The City Council, however, may enact by ordinance a supplemental budget for any fund identifying any previously unanticipated source of revenues and projected additional expenditures. In any one year the amount provided in the annual budget to be paid out of the general and special funds so budgeted, shall be maintained and used for the particular purposes specified in the budget ordinance. During the budget year, the City Council may, by

resolution, transfer and appropriate any unused balance of any general fund appropriation or portion thereof from one department or agency to another. Transfers of monies from one fund to another shall only be made by ordinance and shall constitute a budget amendment. Such amendments shall be a public record.

8d



CITY OF TRINIDAD, COLORADO  
1876

## Council Communication

City Council Meeting: September 17, 2013  
Prepared: September 12, 2013  
Dept. Head Signature: 

# of Attachments: 1

**SUBJECT:** North Lake Dam Rehabilitation Project Update and Engineering Services' Contract Modification Request

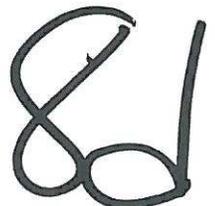
**Presenter:** Tom Acre, City Manager and Mike Graber, RJH Consultants, Project Manager

**Recommended City Council Action:** Staff recommends City Council approve the request for additional funding.

**Summary Statement** The construction of North Lake Dam Project began in September 2012 and eventually the project was broken down into two separate phases. Phase I of the project began in September 2012 through November 2012 and Phase II began on May 6, 2013 and the project is currently underway. Substantial completion was anticipated on September 5, 2013 and this date has been delayed until October or November 2013.

RJH is requesting an additional \$245,000 for engineering services. This includes \$128,000 related to spillway design and redesign requested by Sun Construction and the up to \$117,000 to cover additional on-site engineering oversight and project management due to additional time required for construction.

City Staff, Mr. Graber with RJH Consultants and representatives from Sun Construction met on Wednesday September 11, 2013 regarding the project. At this meeting the critical item required to complete the project is completion of the stilling basin. This piece of the project has been delayed while the contractor and RJH determine the best path forward to complete the dewatering. Sun Construction has been working a trenching design proposal that in discussion it was determined it may be difficult to get this change approved by the State Engineer. At the September 11, 2013 meeting an alternative to this and typical dewatering well drilling was discussed and determined may be the best and quickest method to achieve de-watering. Sun Construction is working on this proposal and once approved by RJH will be submitted to the State Engineer for approval, which we believe will be approved since it is very similar to typical de-water wells.



**Expenditure Required:** Additional \$245,000 for engineering services

**Source of Funds:** Water Department Reserve

**Policy Issue:** Contract extension for engineering oversight for the North Lake Project.

**Alternative:** N/A

**Background Information:** The City of Trinidad began working with Robert Huzjak during his tenure with GEI Consultants. In 2007, Mr. Huzjak began RJH Consultants, Inc. at which time the City of Trinidad began receiving services from RJH Consultants, Inc. and the company designed the project at a cost of \$399,000. On May 29, 2012, City Council approved the proposal provided by RJH Consultants, Inc. for the construction engineering services in the amount of \$333,200.00. Due to the reasons identified in the revised Scope of Work and Budget proposal, date September 6, 2013 by Robert Huzjak and as discussed at the September 10, 2013 City Council Work Session this item is in front of City Council for consideration and action.



September 6, 2013  
Project 07104

Mr. Jim Fernandez  
City of Trinidad  
P.O. Box 880  
Trinidad, CO 81067

**Re: Revision to Scope of Work and Budget for Construction Field Engineering Services,  
North Lake Dam Rehabilitation Project**

Dear Mr. Fernandez:

As you have discussed with Mr. Michael Graber, changes in the project schedule and actions of the contractor have increased the level of effort required by RJH to perform our work. This letter provides some of the assumptions used to develop our existing scope and budget, a summary of primary changes, and our requested budget modification.

#### **Original Scope**

RJH Consultants, Inc. (RJH) developed the original scope and budget for Construction Engineering Services based in part on the following assumptions:

- Construction would be performed over a 6-month period from approximately June through November 2012.
- The construction contractor will work one shift of not more than 10 hours per day 5 days per week.
- The construction contractor would make appropriate work progress and execute the required work in a timely manner.
- Multiple evaluations of and responses to required contractor submittals would not be required.
- The contractor would not repeatedly submit alternate proposals and Requests for Information for the same project components.
- The contractor was experienced and well versed in the construction practices associated with dam rehabilitation.

## Project Changes

For circumstances beyond the control of RJH, many of the above assumptions are now invalid for the following reasons:

- A delay in the contract award and notice to proceed by the City to the construction contractor resulted in dividing the project into two construction phases. Phase I, which was performed during a 3-month period in the fall of 2012, and Phase II, which started in May 2013 and should be completed in October 2013. This resulted in a 6-month project being extended to over 1 year in length. The State Engineer Office (SEO) requires full-time construction field engineering services for a high hazard dam, which RJH is contracted to provide. This requirement and the increased time to complete the project will require significant additional labor, time, and expenses beyond the original 6-month estimated construction duration.
- The construction contractor did not complete or even start the new spillway during Phase I. In the months of September, October, and November 2012, the contractor only removed and backfilled the existing spillway and grouted a low-level outlet pipe. This work, in our opinion, should have been completed in 3 weeks, not 3 months. However, because of the SEO requirements, RJH was required to be onsite during this entire period. The additional construction duration resulting from this lack of progress has added additional labor, time, and expense for RJH beyond the original 6-month scheduled project budget.
- The contractor has previously worked a number of 6-day work weeks and has recently indicated that they intend to work 6-day weeks for the remainder of the project. This will require additional time for the RJH field staff above the original 5-day per week estimate.
- Many of the contractor submittals required multiple evaluations and responses by RJH because the submittals were incomplete and unacceptable. The poor quality of the contractor submittals has required additional labor time beyond what was included in the original project budget.
- Shortly after construction began on the project, the contractor began requesting a change in the specified spillway pipe. The contractor then proceeded in submitting alternate proposals and details related to the spillway pipe for approximately 6 months. RJH evaluated the information provided by the contractor and concluded that the contractor did not include the specified pipe in this bid and it is our opinion that the contractor's motivation for requesting changes to the spillway pipe was to limit his loss related to this bid item. After many repeated evaluations of contractor proposals and communications related to this item and RJH stating that the contractor supply the spillway pipe as specified, it became apparent that the contractor had no intention of supplying the specified pipe. In an attempt to keep the project on schedule, RJH designed and detailed an alternate spillway pipe, which was completely encased in concrete. The alternate spillway pipe design and all of the time spent evaluating the contractor's multiple proposals has required significant additional RJH labor hours, which was not budgeted and could not have been foreseen.
- Based on the activities of the construction contractor, it appears that they have minimal experience related to dam rehabilitation construction and are unfamiliar with many of the requirements and procedures related to this specialized construction. This lack of experience has necessitated significantly more direct project involvement by an RJH senior engineer than was originally budgeted. This involvement is needed to ensure that the work

is being performed in substantial conformance with the contract documents because the contractor has been very difficult to work with, continually attempting to cut corners and perform work not in compliance with the specifications.

- The contractor has now exceeded the required project substantial completion date of September 5, 2013. Based on the current percentage of work completed and the rate at which work is being completed, it appears likely that the contractor will not reach substantial completion until middle to late November. For purposes of this contract modifications we have assumed that the contractor will achieve substantial completion on November 21, 2013.

**Budget Modification**

For the above reasons, RJH requires an increase in our contract amount. Based on the changes in the phasing of the project, the issues identified in this letter, the current status of the project, and our estimated date for substantial completion of November 21, 2013, we are requesting an increase in our contract in the amount of \$245,000. This contract increase is based on the assumption that the contractor will not work more than 6 days per week, 9 hours per day. This will increase the total contract amount to \$578,200. The effort required by RJH to administer the contract and perform the required engineering services is highly dependent on the performance of the contractor and actual date for substantial completion and therefore the costs to complete the project could be more or less than estimated above.

We look forward to continue working with you to successfully implement this project. Please call Mike Graber or me if you have any questions, require further information, or would like to discuss this modification. If you concur with the information included in this letter, please sign and return one copy of this proposal.

Sincerely,

RJH CONSULTANTS, INC



Robert J. Huzjak, P.E.  
President

RJH/jmm

Bernadette Baca Gonzalez  
Name (Please Print)

Mayor  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date